

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

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Vladimir Collazo-Leon, # 02703-069,)

Civil Action No. 2:04-2470-SB

Plaintiff,)

-vs-)

ORDER

John J. LaManna, Warden; Ray Holt,
Regional Director, SERO; and Harrell
White, Administrator,)

Defendants.)

This matter is before the Court on the pro se Plaintiff's complaint alleging violations of his constitutional rights, pursuant to 42 U.S.C. § 1983. By local rule, this action was referred to United States Magistrate Judge Robert S. Carr for pretrial dispositions.

The Defendants filed a motion to dismiss (or, in the alternative, for summary judgment) on November 15, 2004. The Magistrate Judge issued an order on November 23, 2004, as required by Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), outlining the procedure for dismissal and summary judgment, and requiring the Plaintiff to file a response within 34 days. The Plaintiff thereafter moved for an extension of time in which to respond, upon which the Magistrate Judge did not rule.

After receiving no response to the Defendants' motion, the Magistrate Judge on January 21, 2005, issued an order directing the Plaintiff to file his response within ten days. When no response was received within this time, the Magistrate Judge issued a report recommending that the action be dismissed for failure to prosecute. Attached to the report and recommendation was a notice giving the

Plaintiff ten days in which to file objections. No objections have been filed.

The envelope containing the report and recommendation was returned to the Clerk of Court marked "undeliverable." By order dated August 19, 2004, the Plaintiff was cautioned that he must inform the Court of any change of address:

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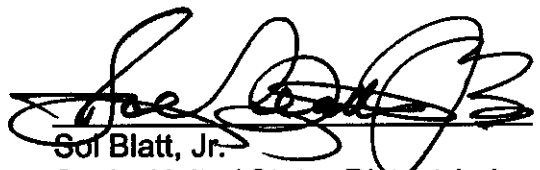
You are ordered to always keep the Clerk of Court advised in writing (Post Office Box 835, Charleston, South Carolina 29402) if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this order, you fail to file something you are required to file within a deadline set by a District Judge or a Magistrate Judge, your case may be dismissed for violating this order. Therefore, if you have a change of address before this case is ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address. Your failure to do so will not be excused by the Court.

As the Plaintiff's failure to receive the report and recommendation was the result of his own failure to comply with the Magistrate Judge's order, the Court has no choice but to dismiss the action.

Based on the foregoing, it is

ORDERED that the Magistrate Judge's report and recommendation is affirmed and adopted as the order of this Court; and this action is hereby dismissed for failure to prosecute.

IT IS SO ORDERED.


Joel Blatt, Jr.
Senior United States District Judge

May 18, 2005
Charleston, S.C.